

# EXHIBIT B

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

WILLIAM M. BYRD, )  
Plaintiff, )  
 )  
v. ) C.A. 04-11032-DPW  
 )  
AVENTIS PHARMACEUTICALS, INC. )  
and DEBRA EDMUNDS, )  
Defendants. )

DEPOSITION OF **DEBORAH A. EDMUNDS**, a  
Witness called on behalf of the Plaintiff, taken  
pursuant to the applicable provisions of the  
Federal Rules of Civil Procedure, before Maureen  
Nashawaty, a Notary Public within and for the  
Commonwealth of Massachusetts, held at the  
offices of Flavin & Koslowsky, 424 Adams Street,  
Milton, MA, on Tuesday, October 26, 2004,  
commencing at 10:10 a.m.

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**DISK ENCLOSED**

1 Stenographer can take down my entire question and  
2 then you can respond.

3 A. Okay.

4 Q. Are you under the influence of any  
5 drugs or alcohol today which would impair your  
6 ability to testify truthfully?

7 A. No.

8 Q. What is your present residential  
9 address?

10 A. 92 Lincoln Road in Wayland.

11 Q. How long have you resided there for?

12 A. One month.

13 Q. Where did you live before?

14 A. 308 Concord Road, Wayland.

15 Q. How long did you reside there for?

16 A. About seven years.

17 Q. I want to show you a document that has  
18 been previously marked as Exhibit No. 1. Will  
19 you take a look at that? Have you seen that  
20 document before?

21 A. It looks like the one that was  
22 delivered to my home.

23 Q. All right. Is there two documents  
24 there actually stapled together?

1 Q. What position did you take?

2 A. Area Manager.

3 Q. In all of the jobs that you have had  
4 since college, have you left on good terms?

5 A. Absolutely.

6 Q. And you have provided notice to them?

7 A. Absolutely.

8 Q. Have you ever had a claim of  
9 discrimination brought against you?

10 A. Never.

11 Q. When you took over -- as I understand  
12 it, there is Area Manager and District Manager,  
13 are they the same?

14 A. Interchangeable.

15 Q. Interchangeable?

16 A. Yes.

17 Q. When you took over as Area Manager in  
18 May of 1999, did you supervise employees?

19 A. Yes.

20 Q. Who did you supervise?

21 A. Bill Byrd, Dave Pearlstein, Rebecca  
22 Cable, Jen Riley, Bob Santori, Ernie Simone, who  
23 am I missing? How many people is that?

24 Q. That is six.

1           A.     I am probably missing a person or two,  
2     but I can't recall right now.

3           Q.     What is Rebecca's last name again?

4           A.     Cable, C-a-b-l-e.

5           Q.     Okay.

6           A.     I think I am missing a person. I don't  
7     recall.

8           Q.     Is there a designation for this group  
9     of people that you supervised?

10          A.     That is my district.

11          Q.     That is your district?

12          A.     Yes.

13          Q.     Are you still employed with Aventis?

14          A.     Correct.

15          Q.     Are you still employed in the same  
16     capacity?

17          A.     Yes.

18          Q.     Do you still supervise these  
19     individuals?

20          A.     Some I do. Some I don't.

21          Q.     Which ones do you supervise, Bill Byrd,  
22     obviously you don't supervise?

23          A.     Correct.

24          Q.     David Pearlstein?

1 supervisor?

2 A. Again this is a guesstimate of a couple  
3 of years and in between that time another  
4 gentleman was my boss for six months and it was  
5 Chris and then another guy named Gary Kiesel and  
6 then it was Chris again over a two or three year  
7 period -- two I think.

8 Q. And Gary Kiesel was your manager or  
9 direct supervisor for approximately six months?

10 A. For approximately six months.

11 Q. And do you know the time frame?

12 A. I don't.

13 Q. So Christine List was your direct  
14 supervisor for approximately a two-year period  
15 but in the middle --

16 A. In the middle Gary Kiesel was.

17 Q. In the middle Gary Kiesel was?

18 A. Yes.

19 Q. So Christine List was your direct  
20 supervisor approximately between 2000 and 2002?

21 MS. ACKERSTEIN: Objection.

22 A. I don't recall.

23 Q. Who was your direct supervisor after  
24 Christine List?

1 Q. What does that actually mean?

2 A. He called on endocrinologists and  
3 hospitals.

4 Q. Since you were hired in May of 1999,  
5 has your position with Aventis been changed?

6 A. Could you clarify as far as --

7 Q. Has your job -- have you always been an  
8 Area Manager?

9 A. Yes, I am Area Manager or District  
10 Manager managing people, yes. I mean products  
11 change if that is what you want to know.

12 Q. When products change, do your sales  
13 reps change?

14 A. Not usually, it can.

15 Q. Who are your present sales reps?

16 A. Russ Mayo, M-a-y-o, Sari Pomponio.

17 Q. Could you spell that.

18 A. S-a-r-i P-o-m-p-o-n-i-o, Bob Santori,  
19 Amy Turpin, Tim Zerbe.

20 Q. How do you spell the last name?

21 A. Z-e-r-b-e.

22 Q. Okay.

23 A. Kevin Sturtevant.

24 Q. Can spell the last name?

1       stated, Sample Policy 500, it tells you you have  
2       to be within a certain variance percentage or  
3       dollar allocation and a rep is required to do a  
4       quarterly variance throughout our company, and  
5       once a year a manager is required to go out and  
6       physically count the samples at each rep's site  
7       and if there is a variance above what the company  
8       allows, then our Sample Department contacts the  
9       rep as well as the manager and asks them to work  
10      with them to fix that.

11       Q.       How do they notify you of sample  
12      variances?

13       A.       Usually through e-mail or regular mail.

14       Q.       Do you maintain those records?

15       A.       If it is an e-mail, I might keep it in  
16      my folder. They do it all e-mail now. It used  
17      to be paper and e-mail.

18       Q.       For your sales reps that work for you,  
19      do you maintain a file for each individual sales  
20      rep?

21       A.       Yes, I do. But it is mostly e-mails.  
22      Almost everything is electronic. There is very  
23      little paper.

24       Q.       What type of information do you



1 pieces and certain studies.

2 They give us basically a road map to  
3 follow and then the rep needs to incorporate  
4 those things into their sales call.

5 Q. And you also testified a management  
6 coaching session?

7 A. Yes.

8 Q. How often do you have these coaching  
9 sessions?

10 A. That would be during work-withs.

11 So I usually spend a day to two days  
12 with each rep, usually two days in the field.  
13 Once every -- it depends on the rep. --  
14 generalization -- I mean newer reps I spend more  
15 time with. Maybe once every six to eight weeks I  
16 am out with a rep.

17 Q. You are out once with a rep --

18 A. Two days every six weeks approximately  
19 say.

20 That is an average depending on  
21 meetings and holidays and vacations for  
22 everybody.

23 Q. Are you required, you personally  
24 required to be in the territory during any time

1 period?

2 A. You mean certain days?

3 Q. Just in your daily job performance?

4 A. Yes, I am supposed to be with reps four  
5 days a week and in the office one day a week.

6 Q. So with reps four days a week?

7 A. Yes, again this is an average in a  
8 perfect world with no meetings.

9 Q. And in the office one day?

10 A. Right.

11 Q. Now the four days a week that you are  
12 with reps, what would you be doing with them?

13 A. I would be there to coach and counsel  
14 them on their presentations to physicians.

15 Q. Is that considered a work-with?

16 A. Yes.

17 Q. So four days a week you would do  
18 work-withs?

19 A. Yes.

20 Q. Would you do anything else during those  
21 four days outside of work-withs?

22 A. Yes, depending on the week,  
23 conventions, meetings, you know, vacation.

24 Q. As I understand it, four days during

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1            A.        Because it is still an honor system of  
2            him being in territory. Everyone is supposed to  
3            be out there. It is just due diligence.

4            Q.        How many people have you pulled records  
5            on to determine whether or not they are in the  
6            territory?

7            A.        I can't recall.

8            Q.        More than five?

9            A.        Just at Aventis?

10          Q.        Yes.

11          A.        Probably about five.

12          Q.        Can you name them?

13          A.        In the beginning, I pulled Ernie  
14          Simone. I can't think of the others, maybe Bob I  
15          pulled. I can't recall.

16          Q.        When you say Bob?

17          A.        Santori, it is possible. Tim I am in  
18          the process and, of course, Bill, so maybe four.

19          Q.        Did these records that you pulled for  
20          Ernie Simone, did they indicate that he was in  
21          the territory on every day between 8:00 and 5:00?

22          A.        I don't recall. It was years ago.  
23          They must have been fine because I didn't go  
24          through any warning process with him.

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1            Q.        With Bob Santori?

2            A.        Same thing.

3            Q.        What led you to believe that they  
4 weren't in the territory between 8:00 and 5:00?

5            A.        I don't recall. It was years ago when  
6 I first started -- it was four or five years ago.

7            Q.        With regard to Tim Zerbe, have you  
8 contacted Human Resources?

9            A.        Yes.

10          Q.        Who have you spoken with?

11          A.        Kevin Phox.

12          Q.        What is his last name?

13          A.        Phox, P-h-o-x.

14          Q.        Is he assisting you in developing the  
15 45-day plan?

16          A.        Yes, he just e-mailed me the template  
17 and I am working on it now and I need to send it  
18 back to him and B.J. who is my interim R.D. to  
19 look over before I give it to Tim.

20          Q.        I'm sorry, Kevin e-mailed you the  
21 template?

22          A.        Yes, and I am filling it out, I am in  
23 the process this week and I will then send it to  
24 B.J. who is my boss and Kevin to review before

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1            A.       Sturtevant, yes.

2            Q.       Have you had any performance issues  
3 with him?

4            A.       No.

5            Q.       Tasha?

6            A.       No.

7            Q.       Marrieti?

8            A.       No.

9            Q.       Ernie Simone?

10           A.       No.

11           Q.       Mike McNamara?

12           A.       No.

13           Q.       Annette Bohan?

14           A.       No.

15           Q.       Nancy Barnett?

16           A.       No.

17           Q.       Kathy Grose?

18           A.       No.

19           Q.       Can you describe for me what your  
20 duties are with Aventis?

21           A.       To hire appropriate people, to coach  
22 and counsel reps, to motivate, to review business  
23 plans with them, teach them how to run their  
24 territories, use the databases, act correctly,

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1        pinpoint their business, help with sales  
2        verbiage, and then there is a lot of  
3        administrative duties as well.

4            Q.        Other than Tim Zerbe, Bill Byrd and  
5        Meghan Markle, none of the other sales reps that  
6        work for you had failed to follow company  
7        policies and guidelines?

8            MS. ACKERSTEIN:    Objection.

9            A.        Specifically what policy or guideline?

10          Q.        Any of them?

11          A.        I don't -- I mean that that is such a  
12        broad question as far as has there been minor  
13        sample variances with a couple of reps, yes.

14          Q.        Who are they?

15          A.        I couldn't tell you.    They are very  
16        minor ones usually worked out directly with the  
17        Sample Department and the rep.    And the Sample  
18        Department makes sure they fix it, and it is done  
19        and it is not an FDA violation of a major  
20        quantity, but there may have been some minor  
21        sample variations and those have been resolved.

22          Q.        Who are the reps that had these sample  
23        variance problems?

24          A.        I honestly -- let me think...

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1            A.        Yes, except for Bill.

2            Q.        He is the only sales rep that had  
3 problems?

4            A.        Major -- major violations.

5            Q.        When you say major violations, can you  
6 tell me --

7            A.        I recall it was around \$6,000.00.

8                      Usually they are hundreds of dollars or  
9 some nominal amount that you can work out.  
10 Usually it is an error in sample, shipping or  
11 something that can be worked out relatively  
12 easily.

13            Q.        Do you know or recall whether or not  
14 the \$6,000.00 variance was worked out with Bill  
15 Byrd?

16            A.        I remember it took a long time.

17            Q.        How long did it take?

18            A.        If I recall correctly, it took a month.

19            Q.        Do you recall when this occurred?

20            A.        Near the beginning of when I started  
21 with Aventis or Hoechst at the time.

22            Q.        So 1999 or 2000?

23            A.        1999 or 2000 I am assuming.

24            Q.        Okay.

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1 by Stenographer.)

2 Q. Other than Bill Byrd, are you aware of  
3 any other of your sales reps that were not  
4 working in the territory full time?

5 A. Not that I was aware of.

6 Q. Not that you are aware of?

7	A. Yes.
---	---------

8 Q. And the only ones you did an  
9 investigation into was Ernie Simone and Bob  
10 Santori?

11 A. Yes, years ago that I recall.

12 Q. But you have done no other  
13 investigation into any other sales reps?

14           A.       I probably did Meghan's because I did a  
15       performance plan on her. I probably pulled hers  
16       as well.

17 Q. Is that standard operating procedure  
18 for you if you are going to do a performance  
19 review, strike that, either a plan or a written  
20 warning that you pulled, whether or not they are  
21 in the territory full time?

22           A.     It is part of it. It depends on the  
23     individual.

24 Q. When you say it is part of it, what



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1        Byrd was terminated?

2            A.        Somewhat.

3            Q.        Do you recall who made the decision to  
4        terminate Bill Byrd?

5            A.        It was a mutual decision.

6            Q.        Who was involved in the decision?

7            A.        Christine List, Mailet Minassian and  
8        myself.

9            Q.        Who was the first to recommend  
10       termination of Bill Byrd?

11          A.        It was a mutual decision really.

12          Q.        Are you saying all three of you had the  
13       thought at the same time?

14          A.        No. We don't have the thought at the  
15       same time but we all recognized that there were  
16       competencies that we tried to work with Bill to  
17       get better on and they never improved or they  
18       didn't improve to the standard that we needed.

19          Q.        When did you recognize this?

20          A.        I don't know what date.

21          Q.        Approximately?

22          A.        I believe the beginning of the process  
23       to the end of the process was about a year  
24       and-a-half.

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1            Q.     Did you recognize it at the beginning  
2 of the process?

3            A.     Probably sometime in 2000 I recognized  
4 that there were standards that he was not  
5 meeting.

6            Q.     That there were standards?

7            A.     Yes.

8            Q.     Was there anyone else involved with the  
9 process?

10          A.     Besides Chris List, Mailet and myself?

11          Q.     Correct.

12          A.     Not that I -- oh, Mark Miles who was my  
13 other Regional Director was the first one who  
14 came and did what we call a piggyback ride to  
15 make sure my observations were correct.

16          Q.     Do you recall when the piggyback ride  
17 was?

18          A.     I don't have a date.

19          Q.     Was that before you provided a 45-day  
20 plan?

21          A.     I don't recall. I believe it was.

22          Q.     And what was Mark Miles' observations?

23          A.     The same as mine. He agreed.

24          Q.     What were your original observations?

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1            A.        That Bill's selling skills were not  
2            adequate. His product knowledge was not  
3            adequate. He had administrative issues, and he  
4            was very difficult to coach to try to bring those  
5            issues up.

6                    We were trying to help him meet certain  
7            standards and he was very reluctant to do that,  
8            to take any feedback.

9                    So that is when I asked my boss to come  
10          out and make sure that what I was doing was  
11          correct and see if there was anything else I  
12          could do to help.

13          Q.        Is there a policy with Aventis when an  
14          Area Manager or District Manager wants to  
15          terminate an employee -- the method that they  
16          must follow?

17          A.        That would probably be more of an H.R.  
18          question.

19                    What usually happens is if a manager  
20          sees consistent behaviors or areas that a rep is  
21          leading towards termination, the first thing they  
22          will do is talk with their boss, the Regional  
23          Director and then also get H.R. involved.

24                    So all three people are involved

1 Bill Byrd?

2 MS. ACKERSTEIN: Objection.

3 A. It was on the written warning -- on the  
4 final written warning.

5 Q. But that is a basis for your  
6 termination, is that correct?

7 MS. ACKERSTEIN: Objection.

8 A. No, it is a combination of him not  
9 following through consistently on all of these  
10 areas including expense reports violations as  
11 well.

12 Q. I understand that.

13 So what I am getting at, I am trying to  
14 find out it is my understanding that you were  
15 involved in the decision to termination Bill  
16 Byrd, is that correct?

17 A. Correct.

18 Q. And I am trying to find out what the  
19 basis of that decision was?

20 A. Lack of meeting these performances that  
21 were written out on the written warning.

22 Q. All right. So these were the bases of  
23 your terminating Bill Byrd, is that correct?

24 MS. ACKERSTEIN: Objection.

1 and they put them in after.

2 It is a company policy. When I am with  
3 them, they know to put in their call notes  
4 immediately following the call.

5 And if I am not with them, I don't know  
6 what they are doing. But I always, when I get  
7 into their car, I check their computer and it  
8 will tell me what their call notes are and their  
9 teammates call notes and I do check that on  
10 people.

11 Q. Are there occasions when a sales rep  
12 cannot -- it is not in violation of the policy  
13 for a sales rep not to input it immediately after  
14 the call?

15 A. No, that is okay. I mean if you are in  
16 a multiple group practice and you are talking to  
17 two doctors at once and one comes out of the  
18 hallway and you have to talk to two of them, just  
19 when you leave the office, you put it down so it  
20 is fresh in your memory.

21 Q. And what were the examples of Bill Byrd  
22 not doing it -- specific examples?

23 A. When you would look in the Jornada,  
24 there would be call entered and no notes or very

1       vague notes that would not be helpful for the  
2       teammates.

3           Q.       Can you give me an example?

4           A.       It is two years ago, I can't recall  
5       exactly, but if you pull the report which you  
6       probably have in there, it will probably show  
7       you -- it says detail and there is no call notes.

8           Q.       If you recognize that there are no call  
9       notes, is there a method that you go through to  
10      investigate a sales rep?

11          A.       Well, like I said, it first starts in  
12      the car with the sales rep when I am out with  
13      them and if they are not putting in the call  
14      notes after and when we do pre-call planning,  
15      that means before we go into visit the physician,  
16      I pull up their notes as well as their team  
17      notes, and if I see that they have either no  
18      notes or very bad notes, I bring it to the rep's  
19      attention and tell them it is not acceptable.

20                 And if it continues, then I can pull a  
21      call report if I feel it is appropriate after  
22      talking with my manager.

23          Q.       Other than Bill Byrd, do you have any  
24      memory of any other sales reps where you had to

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1            A.        I don't know. I have to talk to H.R.  
2            and my boss.

3            Q.        Have you had any other sales reps who  
4            stacked sample boxes in the back seat of the  
5            vehicle?

6            A.        Not so that they could not look out of  
7            the window, blocking the view, no.

8            Q.        But stacked it in the back seat?

9            A.        The issue was Bill stacked it so he  
10           couldn't see out of the back window.

11           Q.        You have to listen. I am asking you a  
12           question. I am not asking you if it blocked the  
13           window.

14                    I am asking you have you had occasion  
15           where any of the sales reps stacked the samples  
16           in the back seat?

17           A.        They put samples in their back seat  
18           sometimes -- most of the time in the truck. It  
19           depends on the vehicle.

20           Q.        Can you identify for me any sales reps  
21           who have stacked it in the back seat?

22           A.        I don't recall any stacking. They do  
23           sometimes put samples in the back seat.

24           Q.        But Bill is the only one that comes to

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1        mind who stacked it so that in your opinion you  
2        could not see out of the rear window?

3            A.        You absolutely could not see out of the  
4        rear window, correct.

5            Q.        When did you first believe that Bill  
6        Byrd was not working in the territory between  
7        8:00 and 5:00 Monday through Friday?

8            A.        Like I said, when he told me his son,  
9        he drops his son off at school at 8:00 at  
10        Xaverian.

11          Q.        But you have no specific recollection  
12        as to what time period that was?

13          A.        Sometime after I started in early 2000  
14        after maternity leave I am assuming, mid 2000.

15          Q.        Have you had any other problems with  
16        sales reps not being in the territory between  
17        8:00 and 5:00 p.m.?

18          A.        Meghan Markle I believe wasn't.

19          Q.        If a sales rep is not going to be in  
20        the territory between 8:00 and 5:00 p.m., Monday  
21        through Friday, is there a method in which they  
22        report that to people?

23          A.        Yes, they just leave me a voice mail or  
24        an e-mail and let me know if they are taking



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1        vacation or they have a display or something is  
2        going on.

3            Q.        Did you have any sales rep that had an  
4        ongoing issue with whether they reported it to  
5        you or not being in the territory between 8:00  
6        and 5:00 p.m.?

7            A.        Not that I know of.    If they didn't  
8        report it to me, I wouldn't know because I don't  
9        see them.

10          Q.        The daily transmission of call  
11        activities to home office, did you have any other  
12        sales reps that had an issue with that?

13          A.        Again, I wouldn't know unless I pulled  
14        the reports on that.    That was expectation.

15          Q.        Now, do you recall any sales rep that  
16        you pulled a report on?

17          A.        Meghan.

18          Q.        What about Tim?

19          A.        I haven't done it yet.

20          Q.        Do you plan on doing it?

21          A.        I don't know.    I have to talk again to  
22        my H.R. and to my boss.

23          Q.        So other than Tim Zerbe and Meghan  
24        Markle and Bill Byrd, you don't have any

*C O N F I D E N T I A L     T E S T I M O N Y* 106

1 recollection of pulling daily reports on any  
2 other sales reps of any other person that reports  
3 to you?

4 A. Not that I recall for transmissions.

5 Q. How long does Aventis keep these  
6 records for -- the call activity?

7 A. I don't know. That would be a Computer  
8 Systems Department thing.

9 Q. Satisfactory knowledge of Aventis  
10 promoted products and their competitors.

11 A. Yes.

12 Q. Any other sales reps have issues with  
13 that other than Bill Byrd?

14 A. As far as being able to articulate the  
15 proper verbiage for that bullet point?

16 Q. Yes.

17 A. Sometimes newer reps do but that is  
18 understandable but people with Bill's tenure at  
19 that point should know the promoted products  
20 very, very well is the expectation.

21 Q. So other than Bill Byrd and new --

22 A. Newer reps.

23 Q. -- and newer reps, Bill was the only  
24 one that had an issue with that?

*C O N F I D E N T I A L     T E S T I M O N Y*     107

1            A.        Well, Meghan.

2            Q.        Meghan had an issue with that?

3            A.        Yes.

4            Q.        How about Tim?

5            A.        Well, he is brand new.    He is six  
6            months in so...

7            Q.        But he does have a problem with that?

8            A.        He can't get the information out.    He  
9            knows it but he can't sell.

10

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1 Q. Now I want to jump to actually the  
2 final written warning.

3 You put in here and I think one of the  
4 reasons that you stated for his termination was  
5 that you learned that Bill Byrd recently exceeded  
6 Aventis entertainment expense guidelines?

7 MS. ACKERSTEIN: Objection.

8 Q. As well as recording the expenses  
9 inaccurate, is that true?

10 MS. ACKERSTEIN: Objection.

11 A. It was a combination of everything in  
12 this final written warning.

13 Q. Is that one of the reasons for the  
14 termination?

15 MS. ACKERSTEIN: Objection.

16 A. Expense guidelines?

17 Q. Yes.

18 A. If I recall correctly, yes.

19 Q. Can you identify for me what  
20 specifically you are talking about in this final  
21 written warning?

22 A. I believe it was the golf outing.

23 Q. When you say the golf outing, what do  
24 you mean by that?

**C O N F I D E N T I A L    T E S T I M O N Y    134**

1       receipt is. Can you see the copy? Stop & Shop  
2       it says.

3                Do you see a date on this receipt, the  
4       last page?

5                MR. KOSLOWSKY: I don't see it but  
6       this is the document that Aventis produced in  
7       response to a Request for a Production of  
8       Documents.

9                A. It appears to be this receipt for the  
10       \$125.90 I assume is going towards the June 6th  
11       Stop & Shop round table.

12               Q. Is that an error? Are you trying to  
13       say --

14               A. Where does \$140.44 come from if the  
15       receipt says \$125.90?

16               Q. So as I understand it, one of the  
17       reasons that you terminated Mr. Byrd was because  
18       of this expense report, is that correct?

19               A. Falsifying expense report and call  
20       activity.

21               Q. You believe that he falsified this  
22       expense report?

23               A. Let me look at it.

24               On the first page of the receipts, the

C O N F I D E N T I A L   T E S T I M O N Y   166

1        said, I was able to observe enough.

2            Q.        Are these sales reps, are they being  
3 supervised by other area managers?

4            A.        Yes.

5            Q.        Okay, were there any complaints  
6 submitted to you regarding Bill Byrd?

7            A.        Formal complaints or just word of  
8 mouth?

9            Q.        Any complaints?

10          A.        Yes.

11          Q.        Any formal complaints?

12          A.        Not that I know of. No one filed it  
13 with H.R.

14          Q.        Who made a complaint to you?

15          A.        Mike Thibault.

16          Q.        Who else?

17          A.        Julie Nelson had issues with him.

18          Q.        She had a complaint?

19          A.        She complained to John Ferney and I at  
20 the time and that was probably a year or two  
21 later. They were having very big teamwork  
22 issues.

23          Q.        Anyone else?

24          A.        That was basically it for the team.

*C O N F I D E N T I A L     T E S T I M O N Y* 167

1 Two out of four people.

2 Q. And what was Mike Thibault's complaint?

3 A. Numerous things. Bill wasn't allowed  
4 in certain offices --

5 Q. I'm sorry, Bill wasn't allowed in  
6 certain offices -- I believe you said that Mike  
7 Thibault identified to you which offices he  
8 wasn't allowed in?

9 A. Yes, and I don't recall the names.

10 Q. When did this conversation with Mike  
11 Thibault take place?

12 A. I don't recall the date.

13 Q. Was it before this review?

14 A. I don't recall.

15 Q. Was it after this review?

16 A. I don't recall.

17 Q. Was it after Mr. Byrd was terminated?

18 A. It was while Mr. Byrd was employed with  
19 us.

20 Q. All right. Was it during -- after the  
21 45-day plan?

22 A. I don't have a date.

23 Q. So you have absolutely no recollection?

24 A. Sometime between 1999 and 2001.

*C O N F I D E N T I A L     T E S T I M O N Y* 168

1            Q.        How many occasions did you speak with  
2 Mike Thibault regarding --

3            A.        Mike Thibault sought me out to explain  
4 issues such as samples, Bill ran out of samples  
5 one time and they happened to bump into each  
6 other at some location and Bill said I have no  
7 samples, do you have some that you can give to  
8 me.

9            Q.        It that uncommon --

10          A.        Yes.

11          Q.        -- for one rep to take samples from  
12 another rep?

13          A.        You plan -- it is not uncommon to  
14 transfer samples but you do that ahead of time  
15 knowing that you are going to be running out.

16          Q.        Other than samples, did Mike Thibault  
17 complain to you about Bill about anything else?

18          A.        Like I said, access to some physician's  
19 offices that Bill wasn't allowed access to.

20          Q.        Anything else?

21          A.        Not that I can recall.

22          Q.        Did you discuss with Bill these  
23 statements that Mike Thibault made to you?

24          A.        The sample one I believe I did -- why



*C O N F I D E N T I A L     T E S T I M O N Y*     169

1        he ran out of samples and didn't plan.

2            Q.        The physicians' access -- the access to  
3        some physicians' offices -- you didn't discuss  
4        that with Bill?

5            A.        I might have. I don't recall.

6            Q.        Would that be a concern of yours that  
7        one of your sales reps didn't have access?

8            A.        Absolutely.

9            Q.        And that would be something that you  
10       want to address?

11          A.        Yes, absolutely. I just can't recall  
12       if I did or not. It was three years ago.

13          Q.        And again interpersonal skills, when  
14       you met with him in May of 2000, you state that  
15       Bill treats customers and his peers with dignity  
16       and respect?

17          A.        Yes, that is what I observed, Bill was  
18       always kind to people and nice to other people.  
19       That is correct.

20          Q.        Again he has a good rapport with his  
21       Quad teammates and actually participates and  
22       initiates programs within the territory, is that  
23       true?

24          A.        Yes.

*C O N F I D E N T I A L     T E S T I M O N Y* 170

1            Q.       Did that change at some point?

2            A.       Yes, I think I heard complaints from  
3 mostly Julie Nelson and Mike Thibault over time.

4            Q.       What complaints did you hear from Julie  
5 Nelson?

6            A.       She had difficulty with him just on  
7 teamwork issues -- not responding or not  
8 communicating if I recall correctly.

9            Q.       Can you give me a specific example?

10           A.       It was just a general lack of team work  
11 between the two of them.

12           Q.       But you can't think of any specific --

13           A.       No, not off the top of my head.

14           Q.       And it was your belief that Bill Byrd  
15 was the problem as opposed to Julie Nelson?

16           A.       It appeared that way from the examples.

17           Q.       But you don't recall the examples?

18           A.       Programming effort -- she would do a  
19 lot of the programming I think was one of her  
20 issues.

21                     Just lack of communication basically.  
22 It was a big one.

23           Q.       Did you discuss with Bill Byrd these  
24 concerns that Julie Nelson had?

*C O N F I D E N T I A L     T E S T I M O N Y* 189

1            A.        Mid 30's.

2            Q.        Kathy Grose?

3            A.        Grose -- very strong. She is now a  
4 manager at the company.

5            Q.        What is her race?

6            A.        White.

7            Q.        Did you hire her?

8            A.        Yes.

9            Q.        Did you hire Nancy Barrett?

10          A.        Yes.

11          Q.        Okay.

12          A.        And I also hired Sari Pomponio who is  
13 50.

14          Q.        Meghan Markle -- did you hire her?

15          A.        Yes, I hired her.

16          Q.        What is her race?

17          A.        White.

18          Q.        And how old was she?

19          A.        She was around 30 -- late 20's.

20          Q.        And again you hired her?

21          A.        Yes.

22          Q.        What was her background?

23          A.        Pharmaceuticals.

24          Q.        And what company?

*C O N F I D E N T I A L     T E S T I M O N Y*     211

1        remember he got so angry that he stormed out.

2            Q.        When you state he stormed out, did  
3        Mr. Byrd have a disagreement as to the contents  
4        of this review?

5            A.        If it was this review or the other one,  
6        I don't know.

7            Q.        I am referring to now --

8            A.        Number 10, right?

9            Q.        No, Exhibit 9?

10          A.        I'm sorry, what was the question?

11          Q.        Did you have a disagreement with Bill  
12        Byrd over this?

13          A.        If I recall correctly, this is the one  
14        that we did at the Dedham Hilton, this mid-year,  
15        I think this is the one that he got upset and he  
16        disagreed with and I can't remember if I did the  
17        performance plan at the same time or not but he  
18        got so angry that he didn't agree with it and he  
19        wouldn't sign it and he left.

20          Q.        I am going to ask you to look at the  
21        last page of Exhibit No. 9?

22          A.        Yes.

23          Q.        Is that Bill Byrd's signature there?

24          A.        Do not agree, yes.

C O N F I D E N T I A L   T E S T I M O N Y   222

1        were discussing earlier?

2            A.        Yes.

3            Q.        Whose idea was it to request these  
4        reports?

5            A.        Chris and I, I believe at that point,  
6        and Mailet.

7            Q.        And Mailet?

8            A.        Mailet, yes, I don't recall  
9        specifically, but usually we bounce everything  
10       off of Mailet.

11           Q.        And what was the purpose of requesting  
12       these reports?

13           A.        This was again because of Bill's  
14       telling me he visited his mom, didn't record the  
15       miles and then he was dropping his child off at  
16       school at 8:00 and not getting into territory so  
17       I started pulling call activity reports and gas  
18       reports to do a due diligence on --

19           Q.        Do you recall when you requested these  
20       reports?

21           A.        Let's see if there is a date on it.

22                    It says it was generated on September  
23       18th, 2000 and it takes usually a few weeks for  
24       them to get them.

*C O N F I D E N T I A L     T E S T I M O N Y*     224

1       first page I have circled it which is 3:00 he is  
2       in Milton and I assume June 30th was because it  
3       was a weekday when he was supposed to be in  
4       territory down the Cape.

5           Q.       Where was Bill Byrd's territory?

6           A.       Cape Cod and South Shore.

7           Q.       How far up South Shore?

8           A.       Just to -- I think it went to Plymouth  
9       maybe.

10          Q.       And what is the New Bedford area -- is  
11       there an area known as the New Bedford area?

12          A.       Yes, it goes to New Bedford as well, it  
13       goes west there and then down the Cape.

14          Q.       So you circled the indications where  
15       you believed that he is out of territory?

16          A.       Well, these are indications that show  
17       he gassed up -- I am assuming again that June  
18       30th was a weekday -- that is why I circled it --  
19       at 3:00 in his home town of Milton.

20          Q.       Other than gassing up at 3:00 in  
21       Milton, is there any reason that you believe that  
22       other than gassing up that he was out of his  
23       territory beyond just gassing up?

24          A.       Well, dropping his son off at school

C O N F I D E N T I A L    T E S T I M O N Y    225

1        every morning at 8:00, that wouldn't get him into  
2        territory on time.

3            Q.        And if you keep flipping through there,  
4        there is a handwritten for 6/30, 3:00 p.m., do  
5        you know what that indicates -- strike that.

6            Is that your writing?

7            A.        Yes, yes. That I believe goes back to  
8        this first page. It looks like it reference  
9        because there are two different logs -- it says  
10       June 30th at 3:00 and here is June 30th at 15:08  
11       which is 3:00 --

12          Q.        All right.

13          A.        Worked 9:00 to 11:30 and then went back  
14       home and gassed car and I had a question mark  
15       whether he had a dinner program that night.

16          Q.        Do you know if he had a dinner program  
17       that night?

18          A.        I don't recall.

19          Q.        Was this based on a conversation you  
20       had with Mr. Byrd -- these notes?

21          A.        No, this is just my own reading of this  
22       report.

23          Q.        All right, so you are saying he worked  
24       9:00 to 11:30 and then went home and gassed car

*C O N F I D E N T I A L     T E S T I M O N Y*     233

1            Q.     And Hyannis?

2            A.     Yes.

3            Q.     East Freetown?

4            A.     I don't know.

5            Q.     Again Plymouth I believe you testified  
6            is?

7            A.     Yes.

8            Q.     Hyde Park?

9            A.     No.

10           Q.     Canton?

11           A.     No.

12           Q.     Buzzards Bay?

13           A.     Yes.

14           Q.     And it is my understanding that other  
15           than Bill Byrd you have never requested fuel  
16           reports on any other sales rep for Aventis,  
17           correct?

18           A.     I may have with Meghan Markle -- I  
19           don't recall.

20                   MR. KOSLOWSKY:   Mark this please.

21                   (Exhibit No. 12, Reservation  
22                   Confirmation, was so marked.)

23            Q.     Do you recall being in a telephone  
24           conference with Christine List on September 21st,



*C O N F I D E N T I A L     T E S T I M O N Y*     258

1            that is why I had those pulled.    That was odd to  
2            me.

3            Q.        But they checked out?

4            A.        They apparently checked out.

5            Q.        They were authentic?

6            A.        Yes.

7            Q.        Although it may seem unusual, you have  
8            no reason to dispute that Bill Byrd obtained  
9            these signatures of these doctors during these  
10           times?

11           A.        It appears that way.

12           Q.        Or if there is some type of computer  
13           glitch that the clock was set up wrong?

14           A.        Exactly, right, but it is, you know,  
15           something that I need to look into as a manager  
16           with any other rep.

17           Q.        Have you looked at that with any other  
18           rep?

19           A.        If it comes up I do -- again with  
20           Meghan it came up.

21           Q.        It came up at night?

22           A.        It came up -- her work ethic -- she was  
23           commuting from Boston.

24           Q.        All right.

*C O N F I D E N T I A L     T E S T I M O N Y*     259

1            A.        So I really wanted to know what time  
2            she was in territory and she told me she really  
3            didn't get into territory until later and I told  
4            her 8:00 to 5:00 was the rule and I am pretty  
5            sure I pulled reports on her as well.

6            Q.        What policy is the rule 8:00 to 5:00,  
7            do you recall?

8            A.        In your territory 8:00 to 5:00.

9                      So if you have to commute a long time,  
10            that means you have to leave your house at 7:00  
11            to be in your territory at 8:00.

12            Q.        Is the policy for Aventis that you have  
13            to be in there at 8:00 or is it that you have to  
14            be in there for eight hours?

15            A.        Again, it is 7:00 to 4:00 if you are a  
16            hospital rep or 8:00 to 5:00, you know, 8:30 to  
17            5:30. You try to stay within those parameters  
18            because that is when the doctors are in their  
19            offices. You catch them in their office. It  
20            does no good to do 10:00 to 8:00 at night because  
21            no one is in the office.

22            Q.        What if you have to do paperwork?

23            A.        You don't have to do paperwork too much  
24            with this company.

C O N F I D E N T I A L    T E S T I M O N Y    260

1            Q.        With the computer?

2            A.        It is not paperwork.    It just gets  
3 transmitted in.

4            Q.        In other words, if you are doing your  
5 calls and notes --

6            A.        You should do them right after a call.

7            Q.        Let's say you go into one facility --

8            A.        Yes.

9            Q.        -- and you meet with several doctors,  
10 all right?

11          A.        Yes.

12          Q.        And it is getting later in the day and  
13 you know that to get to the other portion for  
14 another call -- if you start doing your call  
15 there, you won't get your other calls in for the  
16 rest of the day, so you won't meet your quota of  
17 8.5 a day?

18          A.        It is not really a quota.    It is a  
19 target or goal.

20          Q.        A goal?

21          A.        Yes.

22          Q.        In that situation do you want the sales  
23 rep to disregard the goal and input their calls  
24 and notes at that point?

C O N F I D E N T I A L    T E S T I M O N Y    268

1       there?

2               Is there anything else other than  
3       sample variance? You said you had discussions  
4       with --

5           A.       Paper forms, he had more paper forms  
6       than anyone, and the company gives clear  
7       directions to use the Jornada as much as  
8       possible -- use the computer as much as possible.

9           Q.       If someone is having problems with the  
10       computer --

11          A.       For two years?

12          Q.       What is the down side -- I don't want  
13       to say the down side.

14               Is there any implication with a sales  
15       rep using paper forms as opposed to the computer?

16          A.       It can cause variances which is a major  
17       issues as well.

18          Q.       Just tracking it makes it more  
19       difficult and it is easier with a computer?

20          A.       If it is entered into the computer, you  
21       can track everything and more accurately, of  
22       course.

23          Q.       All right.

24          A.       In terms of paper forms, they don't

*C O N F I D E N T I A L     T E S T I M O N Y*     269

1        want you to deal with the paper forms. It is  
2        more costly for the company to process.

3            Q.        You could potentially lose the paper  
4        forms and compilations?

5            A.        Yes, I guess. He had the highest in  
6        the district, somewhere around 20 to 30 percent  
7        using paper forms. Everyone else had, you know,  
8        2 to 5 percent -- so it was again another policy.

9            Q.        Did he change that?

10          A.        No, not throughout his time there not  
11        that I recall. He possibly dropped it somewhat.

12                    MR. KOSLOWSKY: Can we get that  
13        marked.

14                    (Exhibit No. 18, Order Counts, was so  
15                    marked.)

16          Q.        Do you recognize that?

17          A.        This is from my Director Mark Miles  
18        giving me direction to tell Bill to stop using so  
19        many paper forms.

20          Q.        Stop using so many paper forms?

21          A.        Yes, he -- that is what I said, around  
22        25/30 percent -- here it is 21 percent and 34  
23        percent.

24          Q.        And this is in the first quarter of

*C O N F I D E N T I A L     T E S T I M O N Y*     288

1            Q.       Did you say David Thurell reported to  
2        you?

3            A.       No, he does not.

4            Q.       How about Carolyn Poulin?

5            A.       No.

6                    MR. KOSLOWSKY:   Mark that.

7                    (Exhibit No. 21, Letter 1/18/02, was  
8                                    so marked.)

9            Q.       I am going to show you a document that  
10        has been marked as Exhibit No. 21.

11                    Do you recognize this document?

12            A.       Yes.

13            Q.       Do you recall that meeting?

14            A.       Yes.

15            Q.       Is this the final meeting before Bill  
16        Byrd was terminated?

17            A.       I believe so.

18            Q.       Is it fair to say that Bill disagreed  
19        with the assessments contained in the written  
20        warnings you provided him?

21            A.       No.   It says right here.   It says Chris  
22        asked Bill if he would call, I'm sorry, where is  
23        it -- when asked if Bill was in our shoes, what  
24        would he do -- he said he would not accept the

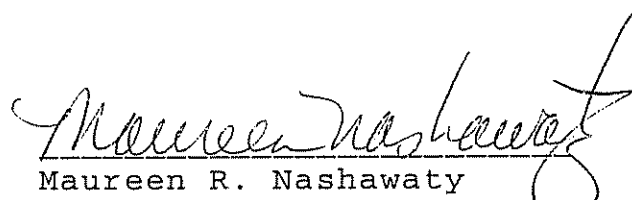
C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

I, Maureen Nashawaty, a Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript of the deposition of **DEBORAH A. EDMUNDS**, having been duly sworn, on Tuesday, October 26, 2004, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 11th day of November, 2004.

  
Maureen R. Nashawaty  
Registered Professional Reporter

THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.

**DISK ENCLOSED**

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Volume: II  
Pages: 313 - 227  
Exhibits: None

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

WILLIAM M. BYRD, )  
Plaintiff, )  
 )  
v. ) C.A. 04-11032-DPW  
 )  
AVENTIS PHARMACEUTICALS, INC. )  
and DEBRA EDMUNDS, )  
Defendants. )

CONTINUED DEPOSITION OF **DEBORAH A. EDMUNDS**,  
a Witness called on behalf of the Plaintiff,  
taken pursuant to the applicable provisions of  
the Federal Rules of Civil Procedure, before  
Maureen Nashawaty, a Notary Public within and for  
the Commonwealth of Massachusetts, held at the  
offices of Flavin & Koslowsky, 424 Adams Street,  
Milton, MA, on Friday, November 19, 2004,  
commencing at 10:10 a.m.

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(617) 423-5841



1 A. No.

2 Q. So the products have changed between  
3 2000 and today?

4 A. Correct, I only have Amaryl and Lantus  
5 right now.

6 Q. And you also have some different reps  
7 reporting to you now than you did then?

8 A. Yes.

9 Q. Is it fair to say a lot has happened in  
10 the past four years?

11 A. Yes.

12 Q. The job of being a sales rep is very  
13 much involved with an honor system, isn't it?

14 MR. KOSLOWSKY: Objection.

15 A. Correct.

16 Q. When the sales rep is spending the day  
17 in his territory, he generally is calling on  
18 physicians and physicians' offices by himself?

19 MR. KOSLOWSKY: Yes.

20 A. Yes, generally.

21 Q. Does he make his own schedule of  
22 visits?

23 A. Yes.

24 Q. And he doesn't have his Area Manager

1 with him every day?

2 A. Yes.

3 Q. So I take it as an Area Manager, you  
4 have to trust your sales reps to be in their  
5 territory every day and you really can't tell  
6 whether they are or not?

7 MR. KOSLOWSKY: Objection.

8 Q. Is that accurate?

9 A. Yes.

10 Q. A sales rep could leave his territory  
11 in the middle of the day and you might not know  
12 about it, right?

13 MR. KOSLOWSKY: Objection.

14 A. Correct.

15 Q. I take it that as an Area Manager, when  
16 you begin supervising a sales rep, you believe  
17 that the rep is being truthful in what he tells  
18 you he is doing?

19 MR. KOSLOWSKY: Objection.

20 A. Yes.

21 Q. And so you in effect are giving your  
22 sales reps the benefit of the doubt?

23 A. Yes.

24 Q. And that is what you did with Mr. Byrd?

1 A. Correct.

2 Q. In 1999 when you began supervising him,  
3 you believed that he was being truthful when he  
4 reported on his activities to you?

5 MR. KOSLOWSKY: Objection.

6 A. Yes.

7 Q. And then at some point he told you he  
8 was dropping off his child at school at 8:00?

9 MR. KOSLOWSKY: Objection.

10 A. Yes.

11 Q. And did that give you some doubt about  
12 whether he was actually in his territory at that  
13 time?

14 MR. KOSLOWSKY: Objection.

15 A. Yes.

16 Q. What was the impact on you when you  
17 learned that he hadn't excluded as personal miles  
18 those miles when he went to see his mother in  
19 upstate New York?

20 MR. KOSLOWSKY: Objection.

21 A. What do you mean by the impact on me?

22 Q. Well, should he have reduced, should he  
23 have deleted those miles or indicated that they  
24 were personal miles?

1           A.     Oh, absolutely -- that was company  
2     policy to record personal mileage.

3           Q.     Did he do that?

4           A.     No.

5           Q.     Did it cause you to have any suspicions  
6     about whether he was being truthful?

7           A.     Oh, yes.

8           Q.     And so I take it, it is after you  
9     learned about that, that you began to look at his  
10    gas receipts?

11          A.     Yes.

12          Q.     So is it fair to say that you have your  
13    sales reps on an honor system and that if you  
14    have some reason to doubt whether they are being  
15    truthful, that you might then begin to look at  
16    some of their documentation to see if it is  
17    accurate?

18                   MR. KOSLOWSKY:  Objection.

19          A.     Absolutely.

20          Q.     You also told us about the plan for  
21    area managers that there is an expectation that  
22    managers will do 120 days a year in the field, is  
23    that right?

24                   MR. KOSLOWSKY:  Objection.

1 A. That is a goal.

2 Q. Okay. And if you actually do the math  
3 and calculate four days a week times 50 weeks,  
4 you would get out to 200 days, so I take it that  
5 the goal is only 120 because there is a  
6 recognition of the other activities that the Area  
7 Manager is going to be involved in?

8 A. Yes, we get 20 vacation days, four  
9 floating holidays, many meetings, holidays, etc.

10 Q. So the things that would be excluded  
11 from the 120 days would be if you had conferences  
12 or you were called to New Jersey?

13 MR. KOSLOWSKY: Objection.

14 A. Exactly. We have many managers'  
15 meetings and many district meetings.

16 Q. Now, you said that the -- that if  
17 somebody was having a problem, a rep was having a  
18 problem, that you might tend to have more time  
19 with them, do you remember that?

20 MR. KOSLOWSKY: Objection.

21 A. Yes.

22 Q. And I assume that that would depend on  
23 what other things were going on, whether you had  
24 meetings or conferences or were called to

1 New Jersey?

2 MR. KOSLOWSKY: Objection.

3 A. Correct.

4 Q. Would it be accurate that as a manager,  
5 it is also easier to provide coaching to a rep if  
6 you believe the rep is receptive to it?

7 MR. KOSLOWSKY: Objection.

8 A. Correct, absolutely.

9 Q. Did you find Mr. Byrd receptive to your  
10 coaching?

11 A. No.

12 Q. And you told us, do you remember you  
13 told us last time that you had called Mark Miles  
14 who was then your Regional Director to go on a  
15 day with you and Mr. Byrd?

16 A. Yes, it is called a piggyback because I  
17 was having issues with Mr. Byrd.

18 Q. And isn't it the case that often times  
19 on a piggyback, the Regional Director will remain  
20 in the car because you don't want three people to  
21 go in to call on a physician?

22 MR. KOSLOWSKY: Objection.

23 A. That can happen, yes.

24 Q. So the Regional Director would still

1 MR. KOSLOWSKY: Objection.

2 A. Yes, yes.

3 Q. And if you see a pattern of a rep  
4 reporting calls principally let's say between  
5 10:00 a.m. and 2:00 p.m., do you reach any  
6 conclusions?

7 MR. KOSLOWSKY: Objection.

8 A. Yes.

9 Q. What do you believe?

10 A. That the rep is not working the full  
11 day as required.

12 Q. What would you expect to see from a rep  
13 who is in his territory between 8:00 and 5:00?

14 A. What I would expect to see?

15 Q. Yes.

16 A. That it would be reflected in the call  
17 activity reports, the correct times.

18 Q. That there would be calls throughout  
19 the day?

20 MR. KOSLOWSKY: Objection.

21 A. Correct, correct.

22 Q. And that the signatures of physicians  
23 who are signing for receiving samples would be in  
24 the daytime hours?

1 MR. KOSLOWSKY: Objection.

2 A. Yes, yes, and they would be spread  
3 throughout usually. It is not just a couple of  
4 hours with all of the signatures. There is some  
5 at 8:00 or 9:00 and some at 4:00 or 5:00 and they  
6 are spattered throughout the middle.

7 Q. And these would be daytime hours?

8 A. Correct.

9 Q. You also testified about the reasons  
10 for the termination of Mr. Byrd's employment. Do  
11 you recall that?

12 A. Yes.

13 Q. And you testified throughout the day  
14 Mr. Koslowsky asked you questions and so I just  
15 want to make sure that I am understanding this  
16 correctly -- you identified problems with  
17 Mr. Byrd's performance in September of 2000 which  
18 were put in this performance review?

19 MR. KOSLOWSKY: Objection.

20 A. Yes.

21 Q. And then Mr. Byrd received a warning, a  
22 final written warning in September of 2001?

23 MR. KOSLOWSKY: Objection.

24 A. Yes.



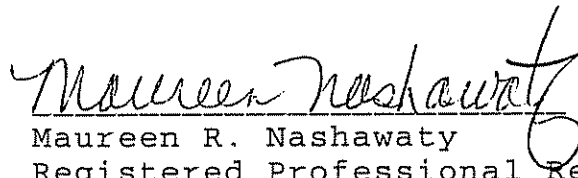
C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

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IN WITNESS WHEREOF, I have hereunto set my hand and seal this 2nd day of December, 2004.

  
Maureen R. Nashawaty

Registered Professional Reporter

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